

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2008-428-C - ORDER NO.  
JUNE \_\_\_\_, 2009

IN RE: Application of Swiftel, LLC for a Certificate of Public Convenience and Necessity to Provide Local Exchange Telecommunications Services and for local service offerings to be Regulated in Accordance with Procedures Authorized for NewSouth Communications in Order No. 98-165 in Docket No. 97-467-C

ORDER GRANTING  
CERTIFICATE TO  
PROVIDE LOCAL  
EXCHANGE  
TELECOMMUNICATIONS  
SERVICES

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Swiftel, LLC ("Swiftel" or the "Applicant" or the "Company") for authority to provide local exchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2003) and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and pro-

vided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would not seek authority in any rural local exchange ("LEC") service areas of South Carolina except as provided in the Stipulation and that Swiftel would not provide any local service to any customer located in a rural incumbent's service area, unless and until Swiftel provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. Swiftel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Swiftel agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Swiftel provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on May 18, 2009, at 11:30 a.m. in the Commission's Hearing Room. The Honorable F. David Butler, Hearing Examiner, presided. Swiftel was represented by Scott Elliott, Esquire. Lenny Solt of Swiftel, appeared and testified on behalf of the Company. C. Lessie Hammonds, Esquire represented the Office of Regulatory Staff.

Mr. Solt, adopting the pre-filed direct testimony of Ms. Angie Watson, Swiftel's President, presented testimony to demonstrate the Company's financial, managerial, and technical ability to provide

the telecommunications services for which authority is sought in South Carolina. Mr. Solt also presented testimony regarding his background and experience in business and telecommunications as well as that of the other executives of Swiftel. Mr. Solt's testimony and exhibits and the exhibits filed with the Company's Application evidence that the management team of Swiftel has extensive experience in the telecommunications industry and that the Company is on sound financial footing to begin operations in South Carolina.

Swiftel was incorporated, under the laws of the State of Florida. Swiftel will initially resell local services, and provide local service through the use of unbundled network elements utilizing the facilities of the existing LECs or other facilities based carriers that presently serve South Carolina.

Applicant seeks authority to resell and provide through its own facilities local exchange services throughout the State primarily in the areas served by AT&T. Applicant's local calling areas initially will coincide with the incumbent local exchange carrier's local calling areas. Although it has no current plans to install facilities in the State of South Carolina. Its services will be available on a full-time basis, twenty-four hours a day, seven days a week, to customers within the geographic boundaries of the State of South Carolina. Customers will be billed by Applicant. Applicant is committed to providing access to a local operator, directory assistance, 911 services and dual relay services. Applicant is also willing to accept its obligations to collect 911 and dual relay service surcharges from its local exchange customers, and to remit those funds to the appropriate authorities.

Customer inquiries are handled by the Applicant's customer service department.

Customers may reach the Company's customer service department via a toll free telephone number. The contact numbers for the Applicant's customer service department and the address are listed on the bills.

The Company is currently authorized to provide services in Alabama, Florida, Kentucky, Montana, North Carolina, Oregon, Tennessee and Washington. The Applicant has never had authority revoked in any state and Swiftel has not been subject to any federal or state investigation regarding the provision of telecommunications services. The record also reveals that the Company agrees to abide by and comply with the Commission's rules, regulations, and Orders.

The Applicant requests waivers of certain Commission rules and regulations. Specifically, the Company has requested that it be allowed to maintain its books and records under Generally Accepted Accounting Principles ("GAAP") as opposed to the Uniform System of Accounting ("USOA"). Additionally, the Company has requested waivers of the requirements that it publish and distribute a local telephone directory under Regulation 103-631 and that it maintain its books and records within the State of South Carolina as required by Regulation 103-610. The Applicant states that it will contract with the ILECs in the areas where it will serve to include the names and phone numbers of its customers in the ILECs' directories. Further, the Company asserts that it will keep its books and records at its principal place of business and will make its books and records available for inspection by the staff as requested. Since the Applicant's local exchange calling areas will mirror the service areas of the incumbent local exchange carriers, the Company requests a waiver of any map filing requirements of 26 SC Code Ann. Regs 103-612.2.3 and 103-631.

Finally, the Company offered that approval of Swiftel's Application would be in the public interest in South Carolina by allowing South Carolina consumers to obtain com-

petitive services and rates. Mr. Solt stated that customers would benefit from Swiftel's industry experience and innovative service offerings and billings options. Further, an increase in the traffic generated through the provision of the Company's proposed intrastate services over existing facilities will help improve the efficiency of those facilities and reduce the underlying carriers' costs in provisioning such services.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Swiftel is organized as a corporation under the laws of the State of Florida and is registered as a foreign corporation, in good standing, with the Office of the South Carolina Secretary of State.
2. Swiftel is a provider of local exchange telecommunications services and wishes to provide its services in South Carolina.
3. Swiftel has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1).
4. The Commission finds that Swiftel's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).
5. The Commission finds that Swiftel will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

6. The Commission finds that Swiftel will provide services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

7. The Commission finds that the provision of local exchange service by Swiftel "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5).

8. We find that the issuance of the authority requested by Swiftel will serve the public interest in South Carolina and is in the best interests of the citizens of the State of South Carolina.

9. We find that the waivers as requested by Swiftel that it (1) be allowed to maintain its books and records according to GAAP rather than the USOA, (2) not be required to publish and distribute a local telephone directory, (3) not be required to publish a map of its service territory, and (4) be allowed to maintain its books and records at its principal place of business rather than within South Carolina should be granted. We find that compliance with these requirements by the Commission would present unusual difficulty for Swiftel. Further, we find that the waiver of these requirements will not create any hardship to the public or adversely affect the public interest.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Swiftel possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in its Application.

2. The Commission concludes that Swiftel's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that Swiftel will participate in the support of universally available telephone service at affordable rates to the extent that all CLECs may be required to do so by the Commission.

4. The Commission concludes that Swiftel will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange service by Swiftel will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Swiftel to provide competitive intrastate local exchange services only to customers located in the non-rural areas of the state. The terms of the Stipulation between Swiftel and SCTC are approved, and adopted as a part of this Order. Therefore, any proposal to provide local telecommunications service to rural service areas is subject to the terms of the Stipulation.

7. The Commission concludes Swiftel's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Swiftel's competitive local exchange services a rate structure incorporating maximum rate levels with the flexi-

bility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Swiftel's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to initiate an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. We conclude that the waivers as requested by Swiftel that it (1) be allowed to maintain its books and records according to GAAP rather than the USOA, (2) not be required to publish and distribute a local telephone directory, (3) not be required to publish a map of its service territory, and (4) be allowed to maintain its books and records at its principal place of business rather than within South Carolina will not adversely impact the public interest in South Carolina, and therefore we conclude that the requested waivers should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to Swiftel to provide competitive local exchange telecommunications services, via resale or on a facilities-based basis.



2. The terms of the Stipulation between Swiftel and the SCTC are approved and adopted as a part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of this Stipulation.

3. Swiftel shall file, prior to offering local exchange services in South Carolina, its final local service tariff with the Commission. Swiftel's tariff shall conform and comport with South Carolina law in all matters. Swiftel's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Swiftel's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Swiftel's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

4. Swiftel shall be required to comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911

system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Swiftel to contact the appropriate authorities regarding 911 service in the counties and cities where Swiftel will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, Swiftel shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

5. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, the Company shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and

shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov) and the appropriate form is entitled “Gross Receipts Form/”.

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (“USF”) worksheet, which may be found on the ORS’s website at [www.regulatorystaff.sc.gov/](http://www.regulatorystaff.sc.gov/). This worksheet provides ORS information required to determine each telecommunications company’s liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the ORS.

6. Additionally, Swiftel shall file with the Commission a quarterly report entitled “CLEC Service Quality Quarterly Report.” The proper form for this report is found on the Commission’s website at <http://www.psc.state.sc.us/reference/forms.asp>. These “CLEC Service Quality Quarterly Reports” are required to be filed within 30 days of the end of each calendar quarter.

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Swiftel shall file the names, addresses, and telephone numbers of these representatives with the

Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website as [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

8. Swiftel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

9. Swiftel is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

10. For good cause shown, Swiftel is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Principles rather than the Uniform System of Accounts method.

11. For good cause shown, Swiftel is granted a waiver of the requirements that the Company publish and distribute a local directory as required by 26 S.C. Code Ann. Reg. 103-631. However, as a condition to receiving a waiver of this requirement to publish local directories, Swiftel shall contact the incumbent ILECs and ensure that the Company's customers are included in the ILECs' applicable directories.

12. For good cause shown, Swiftel is granted a waiver of the requirement that it publish a map of its service territory as required by 20 SC Code Ann. Regs 103-612.2.3 and 103-631.

13. For good cause shown, Swiftel is granted a waiver of the requirement that it

maintain its books and records in South Carolina as required under 26 S.C. Ann. Regs. 103-610. However, as a condition of being granted a waiver of the requirement to maintain corporate books and records within the State of South Carolina, Swiftel is authorized to maintain its books and records at its principal place of business, and Swiftel shall make such books and records available, at the Company's expense, to the Commission staff or employees upon request.

14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

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Elizabeth B. "Lib" Fleming,  
Chairman

ATTEST:

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John E. "Butch" Howard, Vice-Chairman

(SEAL)